HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO :28098 of 2007

Dated 28th December, 2007

Between

Dasari Venkateswara Rao

…Petitioner

and

The Agency Divisional Officer & Sub Collector,
Bhadrachalam, Khammam District and, ors.

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 28098 of 2007

ORDER:

This Writ Petition is filed with the prayer as follows:

"….to issue a Writ, Order or direction, more in the nature of Mandamus declaring the action of the second respondent in not disposing of the statutory appeal filed on 15-10-2007 as against the orders passed by the Agency Divisional Officer and Sub Collector, Bhadrachalam in LTR Case No.3/BCM/2007, dated 20-8-2007 for eviction from the lands situated in Sy.No.10/1 to an extent of Ac.2.43 guntas situated at Thallagudem village of Bhadrachalam Mandal, Khammam District as arbitrary, and vidolative of Article 14,16,21 and 300(A) of the Consltitution of India and consequently to direct the respondents not to interfere with the lands in question till the disposal of the above statutory appeal and to pass such other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case."

It is the case of the petitioner that the petitioner has taken the land to an extent of Ac.11.10 guntas covered by Sy. No.25 of Tallagudem village, Bhadrachalam Manndal in Khammam District, on lease, by way of permanent lease deeds as early as on 8-1-1953 and 15-10-1956, from the pattadar, a non-tribal. It is stated that the Agency Divisional Officer & Sub Collector, Bhadrachalam, has initiated the proceedings against the petitioner under the A.P. Scheduled Areas Land Transfer Regulation 1/1959, as amended by Regulation 1/1970 and by order dated 20-8-2007 passed in LTR Case No.3S/BCM/2007, ordered for eviction of the petitioner from the land to an extent of Ac.2.43 guntas covered by Sy.No.10/1 of Thallagudem village. As against the said order of eviction, the petitioner has preferred statutory appeal along with an application for grant of interim order, on 15-10-2007, before the second respondent-Additional Agent to Government, project Officer, ITDA, Bhadrachalam, Khammam District. It is further submitted that when the claim of the petitioner for grant of Ryotwari patta was rejected, the petitioner carried the matter in appeal as contemplated under the under the A.P. (Scheduled Areas Ryotwari Settlement) Regulation 1970, (Regulation II of 1970), before the Commissioner & Director of Settlements, at Hyderabad and the said appellate authority granted interim order in favour of the petitioner in proceedings No.7985/07(A2), dated 13-12-2007. It is the grievance of the petitioner that in spite of the appeal filed by the petitioner along with an application for grant of interim order before the second respondent, no orders have been passed either on the appeal or stay application, and, further, the appeal preferred before the Commissioner & Director of Settlements is pending consideration, the respondents are taking steps to enforce the order of eviction.

From a perusal of the impugned order, prima facie, there is no clear findings with regard to violation of the A.P. Scheduled Areas Land Transfer Regulation 1/1959, as amended by Regulation 1/1970. In any event, with regard to the validity of the eviction order, the matter is seized before the appellate authority-second respondent, as such, it is not desirable to record any finding on the said transaction at this stage. As much as the petitioner claims to be in possession of the subject land by virtue of the permanent lease deeds dated 8-1-1953 and 15-10-1956 and the appellate authority-Commissioner & Director of Settlements granted interim order dated 13-12-2007 in favour of the petitioner in the appeal filed by him, I dispose of the Writ Petition directing the second respondent-Appellate authority to dispose of the appeal preferred by the petitioner on 15-10-2007 as expeditiously as possible. Further, there shall be a direction to the respondents not to enforce the order of eviction dated 15-10-2007 till the disposal of the appeal by the second respondent-appellate authority and allow the petitioner to be in possession of the land in question.

Subject to the above direction, the Writ Petition is disposed of at the admission stage. No order as to costs

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JUSTICE R. SUBHASH REDDY

DATE: 28-12-2007.
Note: CC in two days
(BO) Msnr.